



Wichita Police Department Policy Manual

Approved by:

Policy 514 - Illegal Aliens/Foreign Nationals

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Maintained by:

Information Services Unit

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ILLEGAL ALIENS:

- 514.01 All aliens living in the United States must have proper identification from their home country [visa or passport] in their possession at all times. If they are living in this country as a resident alien, they must have in their possession an identification card issued by the Immigration and Naturalization Service [INS] or Department of Homeland Security-Immigration and Customs Enforcement (ICE). Older identification cards will have "Immigration and Naturalization Service" printed on the front and back. Newer cards will have the Department of Homeland Security logo. A photograph of the cardholder appears in the front upper left corner; the front lower left corner contains information on his/her port of entry, and date of entry.
- 514.02 R Officers shall not seek out or stop a person suspected of being an alien just because he/she is suspected of being in this country illegally. A law enforcement officer in Kansas does not have the power of arrest for a violation of Federal immigration laws. Should an officer have probable cause to believe that a person that is stopped was previously deported from the United States, the officer shall contact the ICE 24-hour national dispatch center at 1-800-973-2867 and request assistance. Re-entry after deportation is a violation of Federal Criminal Law, separate from immigration law.
- 514.03 A Wichita police officer's involvement with persons suspected of being in this country illegally is limited to situations where probable cause exists independently from the immigration laws [e.g., a violation of State statutes or City Ordinances is committed by an alien, or contact is made during an investigation or an arrest].
- 514.04 Whenever an officer comes into contact with an alien, he/she will be treated like any other suspect. If the officer is unable to communicate with the suspect, an interpreter will be requested through SPIDER.
- 514.05 Whenever an alien is in custody, the detective assigned to the case shall call the nearest ICE office and advise the personnel there of the circumstances surrounding the detention. ICE and the detective will determine if the alien is to be held.
- 514.06 If ICE does not want the alien held, the investigating officer shall complete an Incident Report, including all the information relating to the incident and the alien's name, current local address and place of employment. The case shall be classified as a Miscellaneous Offense-Other [2699] if no other classification applies.
- 514.07 If ICE does want the alien held, the officer shall make a case, using ICE as the Victim/ Reporting Person, and write "Hold For ICE " on the Arrest Report.
- 514.08 Should an officer or supervisor need immediate contact with an ICE agent, he/she may call the ICE 24- hour national dispatch center at 1-800-973-2867. Agents can be contacted through this number at any time nationally and internationally.
- 514.09 Officers that have a criminal alien or previously deported individual in custody can contact the Law Enforcement Support Center at (LESC) 1-800-872-6020. The LESC can assist with placing detainers on criminal aliens.

FOREIGN-NATIONALS:

- 514.10 A foreign national is defined as anyone other than a citizen of the United States. The Vienna Treaty of 1969 places certain obligations on law enforcement agencies dealing with foreign nationals. There are two specific obligations addressed in the treaty:
- A. The treaty requires law enforcement officers effecting an arrest of a foreign national to advise the suspect that they have the right to notify their embassy/consulate of the action taken.
 - B. A law enforcement agency effecting an arrest of a foreign national must make direct contact when notifying foreign consulates of the arrest of a foreign national from certain countries. "Direct contact" shall be defined as contacting the foreign consulate either by telephone or by fax within 72 hours of the arrest. Foreign countries requiring "direct contact" are: Algeria, Antigua, Armenia, Azerbaijan, Bahamas, Barbados, Barbuda, Belarus, Belize, Brunei, Bulgaria, China, Costa Rica, Cyprus, Czech Republic, Fiji, Dominica, The Gambia, Georgia, Ghana, Grenada, Guyana, Hong Kong, Hungary, Jamaica, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Malaysia, Malta, Mauritius, Moldova, Mongolia, Nigeria, Philippines, Poland, Romania, Russia, St. Kitts/Nevis, St. Lucia, St. Vincent/Grenadines, Seychelles, Sierra Leone, Singapore, Slovakia, Tajikistan, Tanzania, Trinidad/Tobago, Tonga, Tunisia, Turkmenistan, Tuvalu, Ukraine, United Kingdom, USSR, Uzbekistan, Zambia and Zimbabwe.
- 514.11 If a foreign-national is arrested, the arresting officer shall advise the suspect of his/her right to have their embassy/consulate notified of the arrest regardless of the severity of the crime. This additional step in the rights-warning process only applies to foreign nationals or suspected foreign nationals. Officers shall document in their Incident Report that they advised the suspect of this right and what the person's response was.

- 514.12 When a foreign national or suspected foreign national advises the officer he/she accepts the offer to notify his/her embassy/consulate of the arrest, the officer shall take the following steps. This notification shall be made even if the person's country is not listed as a country where notification is mandatory.
- A. Officers will notify their immediate supervisor they have a foreign national in custody and of the persons desire to have their embassy/consulate notified of the arrest and if the country of the person's origin is listed as a country where notification is mandatory. Officers shall provide the following information to the supervisor:
1. The person's name and address
 2. Charge(s)
 3. The person's country of origin.
- B. The supervisor shall obtain the most current consulate listing on the Police Secure Site, under Command Staff links. He/she shall contact the embassy/consulate, notify them of the arrest, and provide them with the person's name, address, date of arrest, city and county of arrest, charge(s), and location and phone number where the person is being detained. In addition, the supervisor shall obtain the name of the person notified and include the name, time and date the person was notified of the arrest in a supplementary report.
- 514.13 If the individual declines the offer to notify his/her embassy/consulate of the arrest, but the persons country of origin is listed as a country where notification is mandatory, the officer shall take steps to notify the appropriate embassy/consulate of the person's arrest.
- 514.14 If the individual declines the offer to notify his/her embassy/consulate of the arrest and the persons country of origin is not listed as a country where notification is mandatory, the officer shall adhere to Policy 302-Booking of Prisoners.